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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte JOANN J. ORDILLE, SCOTT A. SCHELL,
JOHN HAMILTON SLYE, and BRUCE E. WALSH

Appeal 2011-009861
Application 11/446,105
Technology Center 2600

Before DONALD E. ADAMS, ERIC GRIMES, and ZHENYU YANG,
Administrative Patent Judges.

YANG, *Administrative Patent Judge*

DECISION ON APPEAL

This is an appeal¹ under 35 U.S.C. § 134 from the rejection of claims 1-29. We have jurisdiction under 35 U.S.C. § 6(b). We affirm.

¹ Appellants identify Avaya Technology LLC as the real party in interest (Appeal Br. 1).

STATEMENT OF THE CASE

The invention relates to conference calling. Claims 1-29 are rejected and on appeal. Claims 1, 12, and 23 are independent claims. Claims 1-22, 28 and 29 are directed to a conference calling method and system. Claims 23-27 are directed to a computer program for executing instructions to operate a conference call.

Claim 1, representative of claims 1-11, 28, and 29, reads as follows:

1. A method of operating a server or servers to establish a conference call comprising:
automatically determining parties to be joined into a conference call;
automatically notifying the parties about the conference call;
authenticating parties that responded to the notification about the conference call; and
using a bridging server to bridge the parties that have been successfully authenticated into the conference call.

Claim 12, representative of claims 12-22, reads as follows:

12. A conference calling system, comprising:
a microprocessor based controller configured to automatically determine parties to be joined into a conference call;
a notifying server configured to notify the parties about the conference call;
an authenticating server configured to authenticate parties that responded to the notification about the conference call; and
a conference bridging server configured to bridge the parties that have been successfully authenticated into the conference call.

Claim 23, representative of claims 23-27, reads as follows:

23. A computer program embodied on a non-transitory computer-readable medium for executing instructions on a computer, comprising:
a first computer code configured to determine parties to be joined into a conference call;
a second computer code configured to notify the parties about the conference call;
a third computer code configured to authenticate parties that responded to the notification about the conference call;
and a fourth computer code configured to bridge the parties that have been successfully authenticated into the conference call.

The following grounds of rejection are before us for review:

1. The Examiner rejected claims 1, 2, 9, 12, 13, 20, and 23 under 35 U.S.C. § 103(a) as unpatentable over Chen² in view of Malik.³
2. The Examiner rejected claims 3, 4, 14, and 15 under 35 U.S.C. § 103(a) as unpatentable over Chen in view of Malik and further in view of Fenton.⁴
3. The Examiner rejected claims 5-8, 16-19, 24, and 25 under 35 U.S.C. § 103(a) as unpatentable over Chen in view of Malik and Fenton and further in view of Shaffer.⁵

² Chen et al., U.S. 2003/0035381 A1, published on Feb. 20, 2003.

³ Malik, U.S. 6,801,610 B1, issued on Oct. 5, 2004.

⁴ Fenton et al., U.S. 5,619,555, issued on Apr. 8, 1997.

⁵ Shaffer et al., U.S. 7,660,849 B1, issued on Feb. 9, 2010.

4. The Examiner rejected claims 10, 11, 21, 22, and 26-29 under 35 U.S.C. § 103(a) as unpatentable over Chen in view of Malik and further in view of Horton.⁶

DISCUSSION

Claims 1, 2, 9, 12, 13, and 20

The only issue Appellants raise on appeal with respect to the rejection of claims 1, 2, 9, 12, 13, and 20 is whether Chen teaches “automatically determining parties to be joined into a conference call,” as recited in claim 1.

According to the Examiner, Chen teaches this claim limitation in paragraphs [0007] and [0019] as they disclose “*scheduling element 50 which is used to store a listing of conference calls, for example setting up a conference call on Wednesday morning at 9AM EST; and launching the outbound calls at the appropriate time to reach the call participants.*” (Examiner’s Ans. 3-4.)

Appellants argue that “[n]othing in Chen suggests that the participants of a conference call are automatically determined as recited in claim 1.” (Appeal Br. 6.) Instead, Chen “discloses a system in which an individual decides who should be included in a conference call.” (*Id.*) In support, Appellants point to language in paragraphs [0016] and [0018] where Chen discusses an individual or a user setting up a conference call. (*Id.*) “Even if the call recurs every week . . . no new determination of parties is made. The

⁶ Horton et al., U.S. 6,757,357 B1, issued on Jun. 29, 2004.

notification repeats but the determination is made only once - and it is made by an individual, not automatically.” (*Id.* at 5.)

In contrast, Appellants argue, in the claimed invention, “the appropriate parties that need to be contacted can be automatically determined without user intervention.” (Appeal Br. 5.) For example, in one embodiment of the invention, “a computer monitoring a LAN may determine that the LAN is down. In response to that determination, a computer database is searched to automatically determine appropriate persons to be joined into a conference call.” (*Id.* at 4-5.)

We agree with the Examiner that Chen teaches the limitation of “automatically determining,” as recited in claim 1. In Chen, a scheduler communicates with a network-controlling server regarding the time of a call and the identity of the participants. (*See* Chen, ¶ [0007].) The scheduling element “may be used to store a listing of ‘recurring’ conference calls (e.g., setting up a sales review teleconference call every Wednesday morning at 9 AM, EST).” (*Id.* at ¶ [0019].)

As the Examiner correctly pointed out, “9:00AM EST on Wednesday morning, the system or server automatically determines the parties (e.g. John, Eddie, Susan) to be joined into a conference based on the scheduled event or calendar.” (Examiner’s Ans. 10.)

Appellants argue, “[r]ather than determining who to join in the conference, Chen’s system joins a predetermined group of people into a conference based on a list.” (Reply Br. 2.) Appellants fail to explain how

this scenario differs from the example in Specification of the present application. Indeed, the Specification states that when the LAN is down, “the conference calling method of the present invention determines the appropriate people to contact.” (Spec. ¶ [0023].)

[T]he relevant parties may be stored in a centralized database or may be searched or queued to determine the appropriate parties. For example, a database may include a list of appropriate persons to be contacted in the event of a network failure and this list is then accessed when the network fails.

(*Id.* at ¶ [0024].)

We agree with the Examiner that “[t]he ‘system’ in the claimed invention, by itself, does not know who would have the right skills or expertise to fix the LAN when it is down.” (Examiner’s Ans. 10.) Instead, at some point, someone created a list of appropriate persons to be contacted in the event of a network failure and stored the predetermined contact list in the database. (*Id.* at 11.) When the LAN fails, the conference calling method of the present invention joins this predetermined group of people into a conference based on that contact list. In other words, the claimed invention operates in the manner as the recurring-conference-call example Chen discloses. We find Chen teaches “automatically determining parties to be joined into a conference call,” as recited in claim 1. Therefore, we affirm the Examiner’s rejection of claims 1 and 12. Claims 2 and 9 fall with claim 1; claims 13 and 20 fall with claim 12.

Claims 3, 4, 14, and 15

Appellants contend that Fenton does not make up for the alleged deficiency in the combination of Chen and Malik. (Appeal Br. 8.) This argument is not persuasive as we found no deficiency in the combination of Chen and Malik. Thus, we affirm the Examiner's rejection of claims 3 and 14 for the same reason discussed above. Claim 4 falls with claim 3; claim 15 falls with claim 14.

Claims 5-8 and 16-19

Appellants contend that Fenton and Shaffer fail to make up for the alleged deficiency in the combination of Chen and Malik. (Appeal Br. 8.) This argument is not persuasive as we found no deficiency in the combination of Chen and Malik. Thus, we affirm the Examiner's rejection of claims 5 and 16. Claims 6-8 fall with claim 5; claims 17-19 fall with claim 16.

Claims 10, 11, 21, 22, 28, and 29

Appellants contend that Horton does not make up for the alleged deficiency in the combination of Chen and Malik (Appeal Br. 9). This argument is not persuasive as we found no deficiency in the combination of Chen and Malik. Thus, we affirm the Examiner's rejection of claims 10, 21, and 28. Claims 11, 28, and 29 fall with claim 10; claim 22 falls with claim 21.

Claims 23

The Examiner rejected claim 23 as obvious over Chen in view of Malik. Appellants only argue that the art of record does not teach a computer program with “a first computer code configured to determine parties to be joined into a conference call.” (Appeal Br. 7.) We disagree. As explained in connection with claim 1, for a recurring conference call, the system disclosed in Chen determines the parties to be contacted. *See supra*, 5-6. This and other functions are carried out through commands and computer program embodied in the servers and systems in Chen. (Examiner’s Ans. 12.) Indeed, as Appellants acknowledged, the servers and systems “may be conveniently implemented using a conventional general purpose digital computer or microprocessor programmed” by those skilled in the computer art. (Spec. ¶ [0044].) Similarly, “[a]ppropriate software coding can readily be prepared by skilled programmers.” (*Id.*) We find Chen teaches a computer program with “a first computer code configured to determine parties to be joined into a conference call.” Therefore, we affirm the rejection of claim 23.

Claims 24 and 25

Appellants contend that Fenton and Shaffer fail to make up for the alleged deficiency in the combination of Chen and Malik. (Appeal Br. 9.) This argument is not persuasive as we found no deficiency in the

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combination of Chen and Malik. Thus, we affirm the Examiner's rejection of claims 24. Claim 25 falls together with claim 24.

Claims 26 and 27

Appellants contend that Horton does not make up for the alleged deficiency in the combination of Chen and Malik (Appeal Br. 9). This argument is not persuasive as we found no deficiency in the combination of Chen and Malik. Thus, we affirm the Examiner's rejection of claim 26. Claim 27 falls together with claim 26.

SUMMARY

We affirm the rejections on appeal.

TIME PERIOD FOR RESPONSE

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a).

AFFIRMED

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